

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**JAMES E. SMITH, III,**

**Defendant.**

**8:08CR335**

## ORDER

This matter is before the court on the defendant's motion to continue trial (Doc. 24). For good cause shown, and upon the representation that there is no objection, trial will be continued to February 3, 2009.

**IT IS ORDERED** that the motion is granted, as follows:

1. The jury trial now set for January 13, 2009 is continued to **Tuesday, February 3, 2009.**

2. In accordance with 18 U.S.C. § 3161(h)(8)(A), the court finds that the ends of justice will be served by granting this continuance and outweigh the interests of the public and the defendant in a speedy trial. Any additional time arising as a result of the granting of this motion, that is, the time between **January 13, 2009 and February 3, 2009**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act because counsel require additional time to adequately prepare the case, taking into consideration due diligence of counsel and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

**DATED December 30, 2008.**

**BY THE COURT:**

**s/ F.A. Gossett**  
**United States Magistrate Judge**